

**MEMO ENDORSED**



**THE CITY OF NEW YORK  
LAW DEPARTMENT**

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September 3, 2020

**VIA ECF**

Honorable Katherine Polk Failla  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: Boisey Caldwell v. Officer German Geronimo,  
19-CV-8253 (KPF) (SLC)

Your Honor,

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department, and one of the attorneys assigned to represent Defendant New York City Police Department Officer German Geronimo in the above-referenced matter. Defendant writes in opposition to Plaintiff's letters, filed on August 26, 2020, purportedly seeking to be relieved of his obligation to respond to Defendant's document requests and interrogatories and requesting a settlement conference. Additionally, Defendant respectfully requests that the Court order Plaintiff to respond to the outstanding discovery requests by a date certain.

By way of background, Plaintiff alleges that he was falsely arrested and subjected to excessive force. Specifically, he alleges that, on September 2, 2019, he was fishing in Morningside Park when he was confronted and tackled to the ground by Officer Geronimo and subsequently arrested. (See Caldwell Compl. 1-2 (ECF No. 2.)) Defendant served Plaintiff with interrogatories and document requests on May 27, 2020. Plaintiff failed to respond, and accordingly, by letter dated August 4, 2020, Defendant requested that the Court schedule a conference to address the outstanding discovery demands. The Court granted Defendant's application and scheduled a conference for August 20, 2020.

Defendant appeared for the discovery conference, but Plaintiff did not. Accordingly, Plaintiff was ordered to show cause "why this case should not be dismissed for a failure to prosecute and for failure to comply with Court orders" by September 30. (ECF No. 63.) On August 26, 2020, Plaintiff filed two letters on the docket – neither of which appear to show cause why this matter should not be dismissed – stating "the interrogatories are an escape route and I am herewith opposing it," "nor is anything in their interrogatories that is worthy of an answer," and "I think that we should have a conference about settlement." (See ECF No. 64, 65.)

To the extent Plaintiff is seeking to be relieved of his obligation to respond to Defendant's document requests and interrogatories, his request should be denied since he has not articulated any cogent basis for his application. The document requests and interrogatories propounded by Defendant will allow Defendant to flesh out issues relevant to the claims and defenses in this matter, and allow Defendant to develop a complete record for purposes of motion practice and/or trial. Moreover, Defendant is permitted to serve such requests pursuant to Rules 33 and 34, and Plaintiff is obligated to respond, regardless of whether Plaintiff contends that the requests are not "worthy of an answer."

Additionally, as to the request for a settlement conference, Defendant submits that a conference would likely not be fruitful. Based on the parties' unsuccessful settlement discussions to date, it is clear that the parties have very different valuations of this matter. That being the case, a settlement conference is unlikely to be beneficial.

Accordingly, Plaintiff's request to be relieved of his obligation to respond to Defendant's document requests and interrogatories and for a settlement conference should be denied. Further, Defendant requests that the Court order Plaintiff to respond to Defendant's discovery requests by a date certain.

Respectfully submitted,

*Qiana Smith-Williams*

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Qiana Smith-Williams<sup>1</sup>  
Senior Counsel

cc: **VIA FIRST-CLASS MAIL**  
Boisey Caldwell  
25 Elliot Place  
Bronx, NY 10425

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<sup>1</sup> This case has been assigned to Assistant Corporation Counsel Aaron Davison, who passed the New York State Bar Exam and is presently applying for admission. Mr. Davison is handling this matter under supervision and may be reached at (646) 988-3220 or [adavison@law.nyc.gov](mailto:adavison@law.nyc.gov).

The Court is in receipt of the above letter as well as Plaintiff's letter dated August 27, 2020 (Dkt. #69) responding to the Court's Order to Show Cause (Dkt. #63) and answering Defendant's interrogatories and document requests. The Court received these submissions at approximately the same time, and cannot ascertain whether Defendant's letter takes account of Plaintiff's August 27 letter. Defendant is hereby ORDERED to inform the Court on or before **September 15, 2020** whether it considers Plaintiff's submissions responsive or believes further action from the Court is necessary.

Dated: September 8, 2020  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE

*A copy of this Order was mailed by Chambers to:*

Boisey Caldwell  
25 Elliot Place  
Bronx, New York 10425